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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Alfred WEBER et al.

Examiner: KAM, Chih M.

Serial No.: 10/665,449

Group Art Unit: **1656**

Filed: September 22, 2003

Title: **PROCESS FOR THE PRODUCTION OF ERGOSTEROL AND ITS INTERMEDIATE PRODUCTS USING RECOMBINANT YEAST**

RESPONSE TO RESTRICTION REQUIREMENT

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement dated March 8, 2006, Applicant's hereby elect with traverse Group I, claims 54-63 and claims 68-76, drawn to a method of producing ergosterol and its intermediate products using the genes a-i to a-vii; an expression cassette comprising the genes; and the microorganisms comprising the expression cassette.

Withdrawal of this restriction requirement is respectfully requested. Page 2 of the open Office Action alleges that the inventions are patentably distinct "because they are directed to different plasmids which contain different genes." Applicants respectfully disagree with this analysis. The claims in the instant application involve related subject matter, for example, a method of producing ergosterol and its intermediate products, as recited in the claims. A search of all the claims would comprise overlapping subject matter, and it would not be an undue burden on the Examiner to carry out a search. "If search and examination of an entire application can be made without serious burden, the examiner *must* examine it on the merits, even though it includes claims to independent or distinct invention." (Emphasis added.) M.P.E.P. 803. Accordingly, it is respectfully submitted that the restriction be withdrawn.

Should the Restriction Requirement still be maintained, Applicants will seek reentry of any withdrawn claims once allowable subject matter has been determined.

A check in the amount of \$1020.00 is enclosed for the three-month extension of time fee. No other fees are believed to be due with this response; however, the Commissioner is hereby authorized to charge any fees associated with this response to Deposit Account No. 13-3402.

Respectfully submitted,



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